REMARKS

I. Status of the Application

Claims 1-34 are pending in the application, with claims 7-33 previously withdrawn. As a result, claims 1-6 and 34 are at issue. By way of this amendment, claims 3 and 34 have been amended. This paper is being presented in response to the Office Action dated November 13, 2007.

II. Amendment of claim 3

Claim 3 has been amended to correct a typographical error. No subject matter has been added by way of this amendment.

III. Claim Rejections under 35 U.S.C. §112

Applicants respectfully traverse the rejection of claim 34 under 35 U.S.C. §112 as being indefinite. Reconsideration and withdrawal of the rejection of claim 34 is respectfully requested in view of the amended claim and of the following remarks.

Although Applicants respectfully note that the original language of claim 34 is not indefinite because this claim recites *payment history data* and *historical payment data* as two distinct elements, Applicants amend the term *historical payment data* to improve clarity and readability of the claim. As amended, claim 34 recites "attempting to retrieve customer data associated with the first customer from a centralized data repository." This element of claim 34 finds support on page 19 of the specification, for example. No subject matter has been added by way of this amendment. Applicants respectfully submit that the amended claim 34 is not indefinite under the provisions of 35 U.S.C. §112 and request that the rejection be withdrawn.

IV. Claim Rejections under 35 U.S.C. §103

Applicants respectfully traverse the rejections of claims 1-6 and 34 as unpatentable over Wallace et al. (WO 200011586) in view of Kaufman (US 5,991,411) alone or in combination with Wheeler (US 6,795,819). The rejections of claims 1-6 and 34 as unpatentable over a combination using Wallace et al. should be withdrawn because Applicants were in possession of the subject matter recited in the claims prior to the publication date of Wallace.

Wallace was published under the Patent Cooperation Treaty on March 2, 2000 and claims priority to US Patent Application 60/097,329 (hereinafter, "the '329 application") filed on August 20, 1998, and to US Patent Application 09/376,294 (hereinafter, "the '294 application") filed on August 18, 1999. To the best of Applicants' knowledge, neither the '329 application nor the '294 was published. Thus, the March 2, 2000 publication date of WO 200011586 is the earliest possible publication date that may be relied upon by the Wallace reference as a §102(a) or §102(b) reference.

Further, the Wallace PCT publication does not designate the United States. Therefore, a United States patent could not have been granted on this application. Thus, because neither the '329 application nor the '294 application published under 35 U.S.C. §122 or issued as a patent, neither the '329 application nor the '294 application has a §102(e) date.

Submitted herewith is a declaration of a named co-inventor, William Phelan, pursuant to 37 C.F.R. §1.131 ("the Rule 131 declaration"). The Rule 131 declaration demonstrates that the methods for automatically exchanging credit information as recited in claims 1 and 34 were in the possession of Applicants at a date prior to the March 2, 2000 publication date of the Wallace reference. Accordingly, the Wallace reference has been effectively sworn behind and is therefore no longer available as a reference. See MPEP §715.07.III. Thus, Applicants respectfully submit that the rejection of claims 1-6 and 34 as unpatentable over a combination using Wallace has been overcome and should be withdrawn.

Further, Applicants respectfully request withdrawal of Wheeler as a reference because Applicants were in possession of the subject matter recited in the claims prior to the earliest possible filing date of Wheeler, i.e., the August 4, 2000 filing date of Provisional Application No. 60/223,085, to which Wheeler claims priority. The Office Action relies on Wheeler to show the act of performing matching routines on the payment history data, wherein new lenders are created if no matching lender is found in the system database, and at least one of adding or updating payment history data in the system database is performed if a matching lender is found in the system database. As established by the Rule 131 declaration and Exhibit A submitted therewith, Applicants were in possession of a design concept including this act prior to March 2, 2000, and thus before the earliest possible filing date of Wheeler. Therefore, Applicants respectfully submit that the rejection of claims 3 and 4 as unpatentable in view of Wheeler should be withdrawn for at least this additional reason.

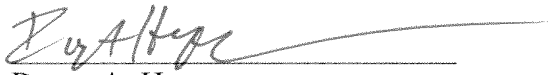
Finally, it is noted that, while Applicants have shown possession of the invention before the August 4, 2000 filing date of Provisional Application No. 60/223,085, it should in no way be construed as an admission on the part of Applicants that the disclosure of Wheeler, as relied upon in the action, was first disclosed in Provisional Application No. 60/223,085; only that the August 4, 2000 filing date is the earliest possible filing date that may be relied upon by the Wallace reference. Further, Applicants submit that Exhibit A in no way indicates a public use or sale of the invention prior to the August 4, 2000 date.

Conclusion

For the foregoing reasons, Applicants respectfully request reconsideration and allowance of claims 1-6 and 34. If there are matters that can be discussed by telephone to further the prosecution of this application, Applicants respectfully request that the examiner call their attorney at the number listed below. Although Applicants believe that no additional fees or petitions are due, the Commissioner is

hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 13-2855 of Marshall, Gerstein & Borun, LLP under Order No. 29804/36569A.

Respectfully submitted,

By: 

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